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 12 and in his official capacity as a Sheriff of Madera County

13 **UNITED STATES DISTRICT COURT**
 14 **NORTHERN DISTRICT OF CALIFORNIA**

15 JOHN P. ANDERSON, in his official capacity as the
 16 Sheriff of Madera County, and individually,

17 Plaintiff,

18 v.

19 JACK DURAN, JR., in his purported official capacity
 20 as Judge of the Picayune Rancheria of the Chukchansi
 21 Indians Tribal Court;

22 DONNA HOWARD, in her purported official capacity
 23 as Clerk of the Picayune Rancheria of the Chukchansi
 24 Indians Tribal Court;

25 THE PICAYUNE RANCHERIA OF THE
 26 CHUKCHANSI INDIANS, a federally recognized
 27 Indian Tribe;

28 CHUKCHANSI ECONOMIC DEVELOPMENT
 AUTHORITY, a wholly owned unincorporated entity
 of the Picayune Rancheria of the Chukchansi Indians;
 CHUKCHANSI INDIAN HOUSING AUTHORITY,
 a wholly owned unincorporated entity of the Picayune
 Rancheria of the Chukchansi Indians;

CASE NO.

[Action filed: _____]

Case Assigned to: Hon. _____

Dept: _____]

**VERIFIED COMPLAINT FOR
 DECLARATORY AND INJUNCTIVE
 RELIEF**

(DEMAND FOR JURY TRIAL)

Slovak Baron Empey Murphy & Pinkney LLP
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 Palm Springs, CA 92262

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1 REGGIE LEWIS, in his purported official capacities)
 as chairman of the Picayune Rancheria of the)
 2 Chukchansi Indians; a representative of the)
 Chukchansi Economic Development Authority; and a)
 3 representative of the Chukchansi Indian Housing)
 Authority;)
 4 CHANCE ALBERTA, in his purported official)
 capacities as vice chairman of the Picayune Rancheria)
 5 of the Chukchansi Indians; a representative of the)
 6 Chukchansi Economic Development Authority; and a)
 7 representative of the Chukchansi Indian Housing)
 Authority;)
 8 CARL BUSHMAN, in his purported official capacities)
 9 as a council member of the Picayune Rancheria of the)
 Chukchansi Indians; a representative of the)
 10 Chukchansi Economic Development Authority; and a)
 11 representative of the Chukchansi Indian Housing)
 Authority;)
 12 IRENE WALTZ, in her purported official capacities as)
 a council member of the Picayune Rancheria of the)
 13 Chukchansi Indians; a representative of the)
 Chukchansi Economic Development Authority; and a)
 14 representative of the Chukchansi Indian Housing)
 Authority;)
 15 LYNN CHENOT, in her purported official capacities)
 16 as a council member of the Picayune Rancheria of the)
 Chukchansi Indians; a representative of the)
 17 Chukchansi Economic Development Authority; and a)
 18 representative of the Chukchansi Indian Housing)
 Authority;)
 19 DAVID CASTILLO, in his purported official)
 capacities as a council member of the Picayune)
 20 Rancheria of the Chukchansi Indians; a representative)
 21 of the Chukchansi Economic Development Authority;)
 and a representative of the Chukchansi Indian Housing)
 22 Authority; and)
 23 MELVIN ESPE, in his purported official capacities as)
 a council member of the Picayune Rancheria of the)
 24 Chukchansi Indians, a representative of the)
 Chukchansi Economic Development Authority; and a)
 25 representative of the Chukchansi Indian Housing)
 Authority.)
 26

Defendants.)
 27)
 28)

**PLAINTIFF JOHN P. ANDERSON, IN HIS OFFICIAL CAPACITY AS THE
SHERIFF OF MADERA COUNTY AND INDIVIDUALLY, ALLEGES:**

I.

INTRODUCTION

1. This lawsuit stems from actions taken by individual members of the Picayune Rancheria of the Chukchansi Indians ("Tribe") who, without lawful or recognized authority, claim to be the authorized representatives of the Tribe; its wholly owned unincorporated, economic entity entitled Chukchansi Economic Development Authority ("CEDA"); and another separate, wholly owned unincorporated entity, entitled the Chukchansi Indian Housing Authority ("CIHA"). Specifically, Defendants Reggie Lewis, Chance Alberta, and Carl Bushman, Irene Waltz, Lynn Chenot, David Castillo, and Melvin Espe (hereinafter, these named Defendants are collectively referred to as the "individual Defendants or "Lewis Faction") have combined their efforts into what has been uniformly referred to as the Lewis Faction. They have created a non-recognized "Tribal Court" ("Lewis Faction Tribunal"); appointed Defendant Jack P. Duran, Jr. ("Defendant Duran"), an attorney formerly with the law firm now representing the Lewis Faction, to be their "tribal judge" and Defendant Donna Howard ("Defendant Howard") as the clerk of court; caused their attorneys to draft and, on August 6, 2013, file in the Lewis Faction Tribunal in the name of the Tribe, CEDA and CIHA, a Verified Complaint for Declaratory and Injunctive Relief and Monetary Damages ("Lewis Faction Lawsuit") against the COUNTY OF MADERA ("County") BOARD OF SUPERVISORS ("County Supervisors"), Tribal members Nancy Ayala, Tracy Brechbuehl, Karen Wynn and Charles Sargosa (commonly referred to collectively and herein as the "Ayala Faction" of the Tribe), and the Sheriff of Madera County, JOHN P. ANDERSON ("Plaintiff", "Sheriff" or "Sheriff Anderson"), in his official capacity and individually. A copy of the Lewis Faction Lawsuit is attached hereto as **Exhibit "1"** and incorporated herein by reference as are all other exhibits referenced herein by this notation.

2. On the same date that the Lewis Faction purportedly served the summons, complaint and notice of ex parte hearing according to the proofs of service filed in the Lewis Faction Lawsuit, Defendant Duran issued a Temporary Restraining Order ("TRO") which remains in effect. Copies of

1 proofs of service filed by the Lewis Faction are attached hereto collectively as **Exhibit "2"** and
 2 incorporated herein. The Lewis Faction attempted to serve Sheriff Anderson by delivering the
 3 summons, complaint and notice of ex parte hearing to the Madera County Counsel who did not have
 4 the authority to accept service on behalf of Sheriff Anderson. Defendant Duran, therefore, issued the
 5 TRO without notice and an opportunity to be heard. That TRO, a copy of which is attached hereto as
 6 **Exhibit "3"**, provides, in part, as follows:

7
 8 Notice shall not be required before this Order is entered because the
 9 Defendants may continue to make illegal attempts to seize control of the
 10 Tribe's government, which attempts may include, but may not be limited
 11 to, the seizing of tribal bank accounts and the continued diversion,
 12 conversion, and loss of the Tribe's money and property if all Defendants
 13 are given advance notice of the Tribe's intention to obtain this Order.

14 ...

15 IT IS HEREBY ORDERED that Defendants the Ayala Faction and Sheriff
 16 John Anderson, in his official capacity, their officers, agents, employees
 17 and attorneys and upon those persons in active concert or participation
 18 with them who receive actual notice of the order by personal service or
 19 otherwise, be and hereby are temporarily restrained directly or indirectly
 20 from taking any further illegal actions, that would cause permanent and
 21 irreparable harm to the Plaintiffs; and

22 IT IS HEREBY FURTHER ORDERED that Sheriff John Anderson, in his
 23 official capacity, shall cease and desist from aiding and abetting the Ayala
 24 Factions' continual illegal activities by, but not limited to: granting access
 25 to the Ayala Faction to any Chukchansi government complex offices;
 26 failing to investigate the Ayala Factions' illegal activities including: its
 27 employment of known gang members as security personnel and for other
 28 purposes; the unlawful detention of Chukchansi Inc. employee Jared
 Conae; hoarding cash in the Casino's cage; the violence against the
 process servers on March 29, 2013, March 31, 2013, and April 21, 2013;
 failing to prevent Brechbuehl and Wynn from taking Tribal records from
 the government office complex on May 21, 2013, and July 26, 2013;
 failing to adequately investigate Hadley Hawkins' act of running down a
 Zak's Security employee with his vehicle on May 21, 2013; and failing to
 meet with, and update, the victims of the aforementioned crimes on the
 status of any investigations related to these criminal behaviors; and

1 IT IS HEREBY FURTHER ORDERED that Sheriff John Anderson, in his
 2 official capacity shall cease and desist from participating, facilitating,
 3 coordinating, negotiating, colluding, conspiring, or dealing in any manner
 4 whatsoever with Ayala and the Ayala Faction, through stipulations,
 5 agreements, communications, payments, or otherwise, as such actions are
 6 or would be in direct violation of Tribal law and are directed to abstain
 7 from moving, depleting, hiding, disposing of, or otherwise attempting to
 8 conceal assets from any future judgment that might be awarded against
 9 them for participating, facilitating, coordinating, negotiating, colluding,
 10 conspiring, or dealing in any manner whatsoever with Ayala and the Ayala
 11 Faction; and

8 IT IS HEREBY FURTHER ORDERED that Sheriff John Anderson, shall
 9 cease and desist contravening the Lewis Tribal Council's rightful authority
 10 by, but not limited to, threatening the Lewis Tribal Council with pepper
 11 spray, threatening Zak's Security employees with arrest for performing
 12 their duties; preventing the Lewis Tribal Council from accessing the Tribal
 13 government complex offices, shall cease and desist from permitting and
 14 endorsing Anderson's actions as his ultimate supervisor and authority
 15 responsible for his actions.

14 3. The County Supervisors, each named in his official capacity, and Sheriff Anderson,
 15 named in his official capacity and individually, on August 10, 2013, specially appearing to contest
 16 jurisdiction only, promptly filed an FRCP 12(6)(1) & (2) Motion to Dismiss in the Lewis Faction
 17 Tribunal, contesting that body's jurisdiction over them. A copy of that Motion is attached hereto as
 18 **Exhibit "4."** That Motion as to the County Supervisors was sustained by Defendant Duran, but was
 19 denied as to Sheriff Anderson, both in his official capacity as Sheriff of Madera County and
 20 individually. Defendant Duran's ruling was issued on September 30, 2013, and included an order
 21 that Sheriff Anderson file his responsive pleading to the Lewis Faction Lawsuit no later than October
 22 21, 2013. A copy of that Order is attached hereto as **Exhibit "5."** This action seeks to void and
 23 otherwise restrain any further attempts to enforce the TRO or similar orders, or to compel Sheriff
 24 Anderson to proceed in the Lewis Faction Tribunal, and seeks rulings related to these matters in
 25 dispute including an order requiring dismissal of such proceeding.

26 4. Plaintiff's Verified Complaint for Declaratory and Injunctive Relief ("Complaint")
 27 has been brought against Defendant Duran in his capacity as presiding judge of the Lewis Faction
 28 Tribunal; Defendant Howard in her capacity as clerk of the Lewis Faction Tribunal; the Tribe;

1 CEDA; CIHA; the Lewis Faction in their official capacities as purported representatives of the Tribe,
 2 CEDA and CIHA. Plaintiff will serve this Complaint on all factions claiming to represent the Tribe,
 3 CEDA and CIHA including tribal members constituting the Ayala Faction and the Reid Faction, as
 4 described herein.

5 5. Plaintiff asserts that injunctive and declaratory relief is necessary and proper to
 6 enjoin any efforts by Defendants to prosecute, direct, maintain, enforce or exercise jurisdiction over
 7 Sheriff Anderson in any tribal court, and most specifically, the Lewis Faction Tribunal presided over
 8 by Defendant Duran, inasmuch as there is no jurisdictional basis to assert the claims against Plaintiff
 9 as alleged in the Lewis Faction Tribal Lawsuit, or to issue the TRO or any other such orders or
 10 further orders as pled in the Lewis Tribal Lawsuit. The Eleventh Amendment to the United States
 11 Constitution and cases interpreting same make clear that Sheriff Anderson is immune from suit as
 12 Sheriff of Madera County, as an agent of the state enforcing California's laws. The TRO and the
 13 underlying Lewis Faction Tribunal Lawsuit are a patently absurd attempt by Defendants to
 14 essentially take over the office of Sheriff and/or act as his "Commander in Chief" subjecting Sheriff
 15 Anderson to tribal control and sanctions, if the overbroad, nonsensical, illegal directives of the TRO
 16 are violated.

17 6. Compounding the illegitimacy of the Lewis Faction Lawsuit and the TRO issued by
 18 the Lewis Faction Tribunal, it is undisputed that there is an ongoing, unresolved, internal tribal
 19 dispute whereby at least three factions now claim to be "in control of" the Tribe, CEDA and CIHA.¹

20 ¹ The purported chairmen of the three competing factions, Nancy Ayala, Morris Reid and Defendant
 21 Lewis, have all filed declarations, in other federal courts, under penalty of perjury. The Declarations
 22 of Nancy Ayala ("Ayala Declaration"), dated June 26, 2013, Morris Reid ("Reid Declaration"),
 23 dated June 6, 2013, and Defendant Lewis ("Lewis Declaration"), dated September 9, 2013, are
 24 attached hereto as **Exhibits "7", "8" and "9"**. In the attached declarations, Ayala, Reid and
 25 Defendant Lewis all claim, under penalty of perjury, to be the chairman of the Tribe. Even
 26 though the Lewis Declaration was filed after the commencement of the Lewis Faction Lawsuit,
 27 Defendant Lewis makes no allegation regarding the involvement of the Sheriff in the current
 28 tribal dispute. In fact, Defendant Lewis declares:

58. Ayala and members of her family, including but not limited to her cousin
 Ted Atkins ("Atkins"), the Director of Security at the Casino, had Casino
 security personnel, under the direction and control of Ayala and Atkins, illegally
 prevent the duly installed members of the Tribal Council from gaining access to

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The dispute is described and further set forth in press releases from the competing factions attached hereto as **Exhibit "6"** attached hereto. Although the Lewis Faction claims to constitute the legitimate Tribal Council which created the Lewis Faction Tribunal and appointed Defendant Duran, it has not been recognized as the lawful authority of the entities on whose behalf it claims to operate. Similarly, the Lewis Faction Tribunal has not been recognized as a legitimate court by the Tribe and/or any Federal agency or court having jurisdiction or authority in this matter. The underlying proceedings before the Lewis Faction Tribunal are nothing more or less than a sham and self-serving construct unilaterally created by the Lewis Faction to create political support in their attempt to gain control over the Tribe, CEDA, CIHA and the Tribe's assets. Presently, the Lewis Faction operates out of rented office space in Fresno, California, and the Lewis Faction Tribunal apparently conducts hearings in the law offices of Defendant Duran and/or, presumably, at the Lewis Faction's office space in Fresno, California.

7. Concurrently, other members of the Tribe (the Ayala Faction) continue to be in control of the Rancheria (or reservation), CEDA and its casino, the Chukchansi Gold Resort and Casino ("Casino"). Until recently, the Ayala Faction had been the representatives of the CIHA recognized by, and engaging in government-to-government business with, the U.S. Department of Housing and Urban Development ("HUD"); and continues to supervise a previously existing Tribal Court, located on the Rancheria, at the Tribal Government Compound, with another judicial officer, Robert Moeller, sitting as the Tribal Court Judge, and from which Defendant Duran has received no authorization or authority to proceed whatsoever. The Lewis Faction, to the extent purportedly acting on behalf of Defendants Tribe, CEDA and CIHA, Defendant Duran, and Defendant Howard have all acted in excess of their powers. Despite whatever political maneuvers underlie their

the Tribe's government buildings and barred them from the Tribe's reservation on February 21, 2013.

59. That night, the Ayala Faction began to occupy not only the Tribal Government compound but also positions within the Casino with the assistance and support of her cousin, Director of Security Atkins, and his 100 person security staff. (Lewis Declaration.)

1 motives, such does not authorize or legitimize their improper attempt to exercise jurisdiction over
2 Sheriff Anderson.

3 8. As alleged in detail herein, the Lewis Faction Tribunal, Defendant Duran and
4 Defendant Howard have no authority to proceed at all and there is no jurisdictional basis for any
5 Tribal Court, duly appointed or not, much less the Lewis Faction Tribunal, to render any rulings
6 against Sheriff Anderson as alleged in the underlying Lewis Faction Lawsuit. Sheriff Anderson is
7 not a person against whom the Lewis Faction Lawsuit may be filed and/or the claims as alleged be
8 asserted. In addition to the protections afforded by the Eleventh Amendment, Plaintiff is immune
9 from such claims and the present effort to assert the claims as alleged are nothing more or less than
10 an improper and failed attempt to bring in Tribal Court a federal civil rights action pursuant to 42
11 USC §1983. No tribe can bring such claims. The claims alleged also violate Public Law 280 (18
12 U.S.C.A. Section 1162 and 28 U.S.C. §1360) ("Public Law 280"), the California Government
13 Claims Act (California Government Code Section 810, *et seq.*), and are contrary to California and
14 Federal laws shielding Sheriff Anderson from liability and which prohibit attempts to restrict his
15 authority under the law. Defendants impermissibly seek tribal jurisdiction over Sheriff Anderson, a
16 non-tribal member, for conduct occurring "off reservation."

17 9. Plaintiff asserts that the TRO now allegedly in effect, which the Defendants seek to
18 enforce and which Defendants will soon seek to convert to a preliminary injunction, albeit no
19 hearing date has yet been set, is unconstitutional and void as alleged below.

20 10. Pursuant to agreements between (a) the County and the Tribe, and (b) CIHA, the
21 County and Sheriff Anderson, all ignored by Defendants, any claims, to the extent allowed, if at all,
22 must proceed in Federal Court or State Court, depending upon the agreement or matters at issue.
23 Simply stated, the Lewis Faction Tribunal has no power to restrain Sheriff Anderson from
24 performing his official duties that he is authorized and required by California law to perform. Such
25 orders also constitute constitutionally impermissible prior restraints of free speech and assembly by
26 Sheriff Anderson in both his official and individual capacities.

27 11. Nothing by the facts or the law requires Plaintiff to continue to be exposed to the
28 proceedings or the orders of the Lewis Faction Tribunal, as brought by the Lewis Faction. By this

1 Complaint, Plaintiff seeks to restrain those proceedings and any further action against him in any
2 Tribal Court, once established. Absent the relief requested, irreparable harm will result.

3 12. Further "exhaustion of administrative remedies" before the Lewis Faction Tribunal is
4 not required as the claims brought are clearly before a tribunal without any jurisdiction whatsoever
5 over Plaintiff. They are also motivated by a desire to harass; are being conducted in bad faith as part
6 of an ongoing intra-tribal dispute, not yet resolved; and are patently violative of express
7 jurisdictional provisions in governing law and controlling agreements between the County, Sheriff
8 Anderson, CIHA and the Tribe. As alleged herein, there are numerous pending lawsuits and
9 administrative hearings ongoing related to the determination of the authority of the Defendants and
10 injunctive relief is necessary given the multiplicity of judicial proceedings.

11 13. The existing TRO and the relief requested in the Lewis Faction Lawsuit are void as
12 against public policy and cannot and should not be enforced as they seek to prevent the execution of
13 a public statute by Sheriff Anderson as an officer of the law. In summary, further exhaustion or
14 litigation in the Lewis Faction Tribunal would be futile under the circumstances at issue. There is no
15 colorable claim of Tribal Court authority as there is no provision under the law that provides for any
16 Tribal Court governance of Sheriff Anderson, whether in his official capacity or individually.

17 II.

18 PARTIES

19 14. Plaintiff JOHN P. ANDERSON ("Sheriff Anderson") is an individual residing in the
20 City of Madera, Madera County, California; a United States citizen; and is not now, and never has
21 been, a member of the Tribe. Sheriff Anderson is and, at all times herein mentioned, has been the
22 duly elected Sheriff of Madera County and all actions at issue were taken in his official capacity as
23 Sheriff of Madera County. Plaintiff files this Verified Complaint for Declaratory and Injunctive
24 Relief in his official capacity as the Sheriff of Madera County and as an individual.

25 15. Defendant PICAYUNE RANCHERIA OF THE CHUKCHANSI INDIANS
26 ("Tribe") is a federally recognized tribe occupying land in Madera County, California, formally
27 designated as a Rancheria albeit it is often incorrectly referred to as a "Reservation."

28 ///

1 16. Defendant JACK DURAN, Jr. ("Defendant Duran") is an individual and a Placer
2 County Supervisor, a licensed California attorney, and is sued in his purported official capacity as a
3 judge of Lewis Faction Tribunal established by one of the competing factions within the Tribe and
4 which tribunal operates out of office space in Fresno leased by the Lewis Faction and/or Defendant
5 Duran's office in Roseville, California ("Lewis Faction Tribunal").

6 17. Defendant DONNA HOWARD ("Defendant Howard") is an individual who Plaintiff
7 is informed is an employee of Defendant Duran, as a legal assistant for his law office, and who
8 purports also to be the Clerk of the Lewis Faction Tribunal.

9 18. Defendant CHUKCHANSI ECONOMIC DEVELOPMENT AUTHORITY
10 ("CEDA") is a wholly owned unincorporated entity of the Tribe, which is located on the Rancheria
11 immediately adjacent to the Casino on the Rancheria, located in Madera County, California.

12 19. Defendant CHUKCHANSI INDIAN HOUSING AUTHORITY ("CIHA") is a
13 wholly owned unincorporated entity of the Tribe and which has historically operated under the
14 independent control and guidance of a Board of Directors duly appointed by the Tribe and which
15 was, until recently, operating on non-Tribal land located within Madera County, near the Casino.

16 20. Defendant REGGIE LEWIS ("Lewis") is sued in his capacity as the purported
17 Chairman of the Tribe; a purported member of the CEDA Board; purported Chairman of the Tribal
18 Council that controls CIHA, as is alleged in the Lewis Faction Lawsuit; a purported member, along
19 with Defendants Alberta, Bushman, Waltz, Chenot, Castillo and Espe, of the Lewis Faction which
20 has created the Lewis Faction Tribunal which, the Lewis Faction claims, is the duly empowered
21 Tribal Court; as well as in his representative capacities, if any, for CEDA and CIHA as alleged in the
22 Lewis Faction Lawsuit.

23 21. Defendant CARL BUSHMAN ("Bushman"), a member of the Lewis Faction, in his
24 capacity as Vice-Chairman of the purported Tribal Council; as a purported CEDA Board member; a
25 member of the purported Tribal Council that controls CIHA, as is alleged in the Lewis Faction
26 Lawsuit; a purported member of the Lewis Faction which has created the Lewis Faction Tribunal
27 which, the Lewis Faction claims, is the duly empowered Tribal Court; as well as in his representative
28 capacities, if any, for CEDA and CIHA as alleged in the Lewis Faction Lawsuit.

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22. Defendant CHANCE ALBERTA ("Alberta"), a member of the Lewis Faction, in his capacity as a member at large of the purported Tribal Council; as a purported CEDA Board member; a member of the purported Tribal Council that controls CIHA, as is alleged in the Lewis Faction Lawsuit; a purported member of the Lewis Faction which has created the Lewis Faction Tribunal which, the Lewis Faction claims, is the duly empowered Tribal Court; as well as in his representative capacities, if any, for CEDA and CIHA as alleged in the Lewis Faction Lawsuit.

23. Defendant IRENE WALTZ ("Waltz"), a member of the Lewis Faction, in her capacity as a member at large of the purported Tribal Council; as a purported CEDA Board member; a member of the purported Tribal Council that controls CIHA, as is alleged in the Lewis Faction Lawsuit; a purported member of the Lewis Faction which has created the Lewis Faction Tribunal which, the Lewis Faction claims, is the duly empowered Tribal Court; as well as in her representative capacities, if any, for CEDA and CIHA as alleged in the Lewis Faction Lawsuit.

24. Defendant LYNN CHENOT ("Chenot"), a member of the Lewis Faction, in her capacity as a member at large of the purported Tribal Council; as a purported CEDA Board member; a member of the purported Tribal Council that controls CIHA, as is alleged in the Lewis Faction Lawsuit; a purported member of the Lewis Faction which has created the Lewis Faction Tribunal which, the Lewis Faction claims, is the duly empowered Tribal Court; as well as in her representative capacities, if any, for CEDA and CIHA as alleged in the Lewis Faction Lawsuit.

25. Defendant DAVID CASTILLO ("Castillo"), a member of the Lewis Faction, in his capacity as a member at large of the purported Tribal Council; as a purported CEDA Board member; a member of the purported Tribal Council that controls CIHA, as is alleged in the Lewis Faction Lawsuit; a purported member of the Lewis Faction which has created the Lewis Faction Tribunal which, the Lewis Faction claims, is the duly empowered Tribal Court; as well as in his representative capacities, if any, for CEDA and CIHA as alleged in the Lewis Faction Lawsuit.

26. Defendant MELVYN ESPE ("Espe"), a member of the Lewis Faction, in his capacity as a member at large of the purported Tribal Council; as a purported CEDA Board member; a member of the purported Tribal Council that controls CIHA, as is alleged in the Lewis Faction Lawsuit; a purported member of the Lewis Faction which has created the Lewis Faction Tribunal

1 which, the Lewis Faction claims, is the duly empowered Tribal Court; as well as in his representative
2 capacities, if any, for CEDA and CIHA as alleged in the Lewis Faction Lawsuit.

3 27. Unless otherwise indicated, Defendants Tribe, CEDA, CIHA, Duran, Howard
4 Alberta, Lewis, Bushman, Alberta, Waltz, Chenot, Castillo and Espe are collectively referred to
5 herein as "Defendants".

6 III.

7 JURISDICTION AND VENUE

8 28. The Lewis Faction Tribunal lacks jurisdiction over Sheriff Anderson in both his
9 official and individual capacities. Pursuant to 28 USCA Section 1362, the District Courts shall have
10 original jurisdiction of all civil actions, brought by any Indian tribe or band with a governing body
11 duly recognized by the Secretary of the Interior, wherein the matter in controversy arises under the
12 Constitution, laws, or treaties of the United States. (*Blatchford v. Native Village of Noatak*, 111 S
13 CT 2578 (1991).)

14 29. Sheriff Anderson has not been served with the Lewis Faction's complaint in his
15 official or individual capacity. Federal Rule of Civil Procedure 4 governs the service of process in
16 federal court. (*Brockmeyer v. May*, 383 F.3d 798, 800 (9th Cir.2004).) "Defendants must be
17 served in accordance with [Rule 4], or there is no personal jurisdiction." (*Jackson v. Hayakawa*,
18 682 F.2d 1344, 1347 (9th Cir. 1982) (footnote omitted).) "Neither actual notice, nor simply naming
19 the person in the caption of the complaint, will subject defendants to personal jurisdiction if service
20 was not made in substantial compliance with Rule 4." (*Id.* (citations omitted).) Once service is
21 challenged, plaintiff bears the burden of establishing that service was valid under Rule
22 4. (*Brockmeyer*, 383 F.3d at 801.)

23 30. To the extent the Lewis Faction Tribunal has any jurisdiction, it has exceeded that
24 jurisdiction and violated federal constitutional rights and statutes. Federal Courts have authority to
25 determine, as a matter arising under federal law (see 28 U.S.C. § 1331) whether a tribal court has
26 exceeded the limits of its jurisdiction. (*County of Lewis v. All*, 163 F.3d 509 (1998); citing *Strate v.*
27 *A-1 Contractors*, 520 U.S. 438; *National Farmers Union Ins. Cos. V. Crow Tribe*, 471 U.S. 845,
28 852-853 (1985).) Furthermore, inasmuch as the Rancheria is within Madera County, California, as

1 Sheriff of Madera County, Sheriff Anderson is entitled to and does provide law enforcement services
 2 on the Rancheria as authorized by Public Law 280. Sheriff Anderson has consistently provided such
 3 services through the present, as well as exercising his lawful jurisdiction throughout Madera County
 4 which includes enforcing federal laws. In his capacity as Sheriff enforcing California's laws, Sheriff
 5 Anderson represents the State of California ("State") and is entitled to all Constitutional protections
 6 and immunities arising therefrom. Sheriff Anderson is further entitled to due process and
 7 protections under the United States Constitution as an individual.

8 31. In 2007, a Settlement Agreement ("2007 Settlement Agreement") was entered into
 9 between the Tribe and the County, a copy of which is attached hereto as **Exhibit "10"**. The 2007
 10 Settlement Agreement contains a dispute resolution provision which provides:

11 3.0 Enforcement of this Agreement/Limited Waiver of Sovereign
 12 Immunity: Should a dispute arise as to the application, interpretation, and
 13 enforcement of the terms of this Agreement, the Parties agree to submit such
 14 dispute to mediation before a mutually agreed upon qualified mediator
 15 familiar with Indian Law. The Tribe agrees to a limited waiver of
 16 sovereign immunity for purposes of completion of such mediation.

17 3.0.1 Should mediation be impractical, unavailable, or unsuccessful by
 18 virtue of the time sensitivity or nature of the issues in dispute, the parties agree
 19 that questions of interpretation and enforcement of this agreement may be
 20 submitted to the United States District Court for the Northern District in the
 21 Tribal Action. . .

22 32. Also in 2007, as a Memorandum of Understanding ("2007 MOU") was entered into
 23 between the County and the Tribe, a copy of which is attached hereto as **Exhibit "11"**. In the 2007
 24 MOU, the Tribe and the County acknowledged that "it is necessary and appropriate to enter into
 25 this new MOU, representing a new era in the government-to-government relationship between the
 26 Parties." Regardless of which tribal faction makes up today the "true Tribal Council members" and
 27 are the true representatives of CEDA and CIHA, all are bound to follow the 2007 MOU which
 28 expressly applies to the Tribe. In Section 2.5 of the 2007 MOU, the Tribe acknowledges it is
 subject to Public Law 280, which fact would exist regardless of the admission in the 2007 MOU.

33. Section 2.01 of the 2007 MOU contemplates that the Tribe will require law
 enforcement assistance from the Sheriff's Department from time to time. Sheriff Anderson was an

intended third party beneficiary thereof as the elected official and ultimate policy maker regarding the matters at issue involving law enforcement assistance from the Sheriff's Department albeit nothing thereby could or did limit Sheriff Anderson's duties, obligations and /or authority as Sheriff for Madera County and California Law.

34. Section 2.1 of the 2007 MOU states:

The Tribe shall have the primary responsibility for maintaining order and safety within the boundaries of the Picayune Rancheria and on all lands held in trust by the United States for the benefit of the Tribe, but acknowledges that assistance from the Madera County Sheriff's Department ("MSO") may be required from time to time with respect to the apprehension and arrest of persons engaged in suspected criminal activity. The Tribe and MSO shall meet and confer on a regular basis to update the procedures which enable both entities to respect and assist each other in fulfilling their respective responsibilities as effectively and efficiently as possible.

35. The 2007 MOU further provides in part that:

7.1 Should a dispute arise as to the application, interpretation, and enforcement of the terms of this MOU, the Parties agree to submit such dispute to mediation before a mutually agreed upon qualified mediator familiar with Indian Law. The Tribe agrees to a limited waiver of sovereign immunity for purposes of completion of such mediation.

7.2 Should mediation be impractical, unavailable, or unsuccessful by virtue of the time sensitivity or nature of the issues in dispute, *the Parties agree that questions of interpretation and enforcement of this MOU shall be submitted to the United States District Court for the Northern District. (Emphasis Added.)*

7.3 The Tribe agrees to a limited waiver of sovereign immunity for the purposes of completion of mediation *and enforcement* as provided for at Section 3 of the Settlement Agreement and Stipulation to Jurisdiction agreed to by the Parties on February 14, 2007... *(Emphasis added.)*

8.2 The Parties have established a permanent committee, known as the Tribal/County Advisory Committee. *The responsibilities of the Committee include review of any questions related to the implementation of this MOU, and concerns over any matter within the scope of this MOU. (Emphasis Added.)*

1 8.2.1 The Committee is comprised of 2 members of the Madera County
2 Board of Supervisors or their designees, and 2 members of the Tribal
3 Council or their designees.

4 36. The scope of the 2007 MOU includes "law enforcement" as set forth in Section 2.0.
5 The scope of that Section specifically addresses the duties and obligations undertaken by the
6 Sheriff's Department and relates to the procedures regarding how "... both entities [are] to respect
7 and assist each other in fulfilling their *respective* responsibilities as effectively and efficiently as
8 possible." While Plaintiff contests the right of Defendants to assert the claims as alleged against
9 Sheriff Anderson as being prohibited as alleged herein, to the extent Defendants assert questions of
10 interpretation and enforcement of the 2007 MOU, the Tribe has agreed they "shall be submitted to
11 the United States District Court for the Northern District." Sheriff Anderson asserts he has standing
12 to assert such obligations on his own behalf and as a third party beneficiary of the 2007 MOU, albeit
13 nothing thereby could or did limit Plaintiff's authority and jurisdiction under California State Law.

14 37. Plaintiff alleges that the claims of Defendants are void and that all orders existing or
15 future orders of the Lewis Factional Tribunal or any other tribunal of the Tribe are without force or
16 effect as no jurisdiction over Sheriff Anderson exists and such claims are barred by the Eleventh
17 Amendment to the United States Constitution. (*See Seminole Tribe v. Florida*, 517 U.S. 44 (1996);
18 *Idaho v. Couer d'Alene Tribe*, 521 U.S. 261 (1997). Plaintiff alleges that Defendants have
19 exceeded their jurisdiction and violated federal, constitutional and statutory rights.

20 38. The question of whether an Indian tribal court retains the power to compel non-
21 Indians to submit to civil jurisdiction in a tribal court for a personal injury action is one to be
22 answered by reference to federal law. (*Nat'l Farmers Union Ins. Companies v. Crow Tribe of*
23 *Indians*, 471 U.S. 845 (1985).) Therefore, an action for injunctive relief against a tribal court's
24 exercise of jurisdiction is one "arising under" federal law over which a federal district court has
25 jurisdiction. (*Id.*)

26 39. Plaintiff alleges that some of the claims within the Lewis Faction Lawsuit appear to
27 be a veiled attempt to assert a prohibited claim under United States Code Title 42, § 1983 ("Section
28 1983") claim, albeit unsuccessfully. Plaintiff alleges that no tribal court, much less the Lewis
Factional Tribunal, has jurisdiction over Section 1983 claims and that the Tribe, CEDA and CIHA

1 have no right to bring such claims in any forum.

2 40. An actual case or controversy exists between the parties warranting this Court's
3 declaratory and related relief pursuant to 28 U.S.C. §§ 2201 and 2202. Jurisdiction is proper as
4 Sheriff Anderson has been sued in the Lewis Faction Tribunal which purports to be, and holds itself
5 out as, the Tribe's Court. Said lawsuit is in retaliation for and to impair, impede, enjoin, restrain,
6 influence and direct law enforcement activities of Sheriff Anderson, all in violation of Public Law
7 280. Specifically, Defendants seek to interfere with and/or restrain Sheriff Anderson from
8 providing law enforcement services on the Tribe's Rancheria in violation of Public Law 280, and
9 throughout the County, and contrary to authority prohibiting same. In addition, Defendants seek
10 over \$5 million in damages from Sheriff Anderson in retaliation for providing law enforcement
11 services pursuant to the 2007 MOU and Public Law 280 and other actions taken by Plaintiff outside
12 of Indian Country.

13 41. Venue is proper under 28 U.S.C. § 1391 and the remedies and relief sought by
14 Plaintiff are authorized under 28 U.S.C. §§ 2201 and 2202.

15 42. On or about July 24, 2013, in order to allow CIHA necessary access to its own
16 operational and historical files necessary to service CIHA's clients and to ensure its ability to
17 operate, which ability had been compromised, and to avoid other impending damages, all as more
18 particularly described below, CIHA on the one hand and the County and Sheriff Anderson on the
19 other hand entered into an agreement entitled Chukchansi Indian Housing Authority Release and
20 Limited Waiver of Sovereign Immunity ("CIHA Agreement"), a copy of which is attached as
21 **Exhibit "12"**. The CIHA Agreement, in part, specifically excludes any attempt by Defendants as
22 here occurring to address any matters involving that Agreement or its enforcement. Specifically,
23 the Governing Law/Venue found at Page 6, Section 13 provides:

24
25 *"This Agreement shall be governed by and construed under the laws of the*
26 *State of California. The Parties hereby expressly and voluntarily submit to the*
27 *jurisdiction of the Madera County Superior Court and waive all objections to*
28 *personal or subject matter jurisdiction of, and venue in, the Madera County*
Superior Court or otherwise assigned, for the purposes of all cases and
controversies involving this Agreement and its enforcement. The Parties
agree and acknowledge that the Madera County Superior Court shall have

1 sole jurisdiction to enforce all terms and conditions of this Agreement to
2 include enforcement of any orders or judgments entered by the Court. The
3 Parties agree not to bring any action to enforce or interpret this Agreement in
4 any tribunal or court other than the Madera County Superior Court.”
5 *(Emphasis Added.)*

6 43. By the terms of the 2007 MOU, Defendants were required to mediate claims prior to
7 bringing suit which Defendants have failed to do. This operates as a bar to the Lewis Faction
8 Lawsuit and is further evidence of Defendants’ bad faith as further described and alleged below.
9 Before filing this action, Sheriff Anderson did demand a mediation with the Tribe. The Lewis
10 Faction and their representatives did not attend the scheduled mediation. Representatives of the
11 Ayala and Reid Factions, each contending themselves to be the “true council” and representatives
12 of the Tribe, CEDA and CIHA did attend in good faith and participate.

13 44. By the Tribe’s agreement under the 2007 MOU to submit to the jurisdiction of the
14 United States District Court, Northern District and CIHA’s agreement to be governed by the laws
15 of the State of California and to submit to the jurisdiction of the Madera Superior Court, all
16 procedural and substantive protections under United States and California law were afforded the
17 parties thereto including Plaintiff. Such included all United States and California Constitutional
18 protections and all immunities and benefits under the law as herein alleged. To the extent any
19 action would proceed, complete due process of law including the right to jury trial would be
20 afforded Sheriff Anderson, which right is denied to Sheriff Anderson in the Lewis Faction Tribunal
21 proceedings or any Tribal Court proceedings of this Tribe. The rights of Sheriff Anderson to both
22 procedural and due process protections under United States and California law were thereby
23 established which Defendants have no right to resist after the fact. The failure to provide same by
24 reason of Defendants’ attempt to assert jurisdiction over Sheriff Anderson in the Lewis Faction
25 Tribunal provides a jurisdictional basis for the claims and remedies of Plaintiff in this action.

26 45. This Court has jurisdiction as Plaintiff alleges that the purported TRO and the Lewis
27 Faction Lawsuit filed against him are unconstitutional on their face and as applied and further
28 violate Sheriff Anderson’s constitutional rights under the First, Seventh and Eleventh Amendments
29 to United States Constitution, and Article 20, Section 3 of the California Constitution, as well as

Article 1 Sections 2, 3, 15, and 7, of the California Constitution, as they unlawfully and without authority seek to restrain his actions, all without due process of law. Furthermore, the Lewis Faction Tribunal, through the actions of Defendant Duran as a judicial officer, is required to and is acting in violation of his sworn duties as a Supervisor of Placer County. The Lewis Faction Tribunal as constituted has no appeal process. According to the Tribal Court Ordinance of the Lewis Faction Tribunal, attached hereto as **Exhibit "13"** and incorporated herein by this reference, Sheriff Anderson has no right to appeal and no right to a jury trial by his peers in the Lewis Faction Tribunal and is, therefore, being denied his protections guaranteed to under the U.S. Constitution.

46. State sovereign immunity is addressed in the Eleventh Amendment to the U.S. Constitution, which provides:

"The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State".

47. In light of sovereign immunity reserved to the states by the Eleventh Amendment, the Supreme Court has held that Tribes may not sue states without their consent. (*Blatchford v. Native Villages of Noatak and Circle Village*, 501 U.S. 775 (1991).)

48. Sheriff Anderson has absolute immunity from statements made in carrying out his duties as provided in California Civil Code Section 47(a).

49. Defendants failed to comply and freely admit their non-compliance with the California Tort Claims Act (California Government Code §§ 810, et seq.) prior to filing the Lewis Faction Lawsuit. Consequently, the Lewis Faction Lawsuit is defective and barred from proceeding. Furthermore, Defendants' claims are barred under the discretionary immunity doctrine as well as pursuant to the express immunities Sheriff Anderson to which he is entitled in exercising his discretion to conduct an investigation or make an arrest. (Cal. Gov. Code § 815). Government Code Section 815(a), specifically provides:

Except as otherwise provided by statute: (a) A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person.

1 The legislative committee comment following that section reads, in part:

2 This section abolishes all common law or judicially declared forms of
3 liability for public entities, except for such liability as may be required by
4 the state or federal constitution, e.g., inverse condemnation. In the absence
5 of a constitutional requirement, public entities may be held liable only if a
statute ... is found declaring them to be liable.

6 50. California Government Code Section 820.2 provides immunity to Sheriff Anderson
7 as the acts complained of were the result of discretion exercised by Sheriff Anderson. Such
8 immunity is absolute.

9 51. Furthermore, Sheriff Anderson cannot be held liable for the acts complained of by
10 Defendants. California Government Code Section 846 provides:

11 Neither a public entity nor a public employee is liable for injury caused by
12 the failure to make an arrest or by the failure to retain an arrested person in
13 custody.

14 52. Similarly, California Government Code Section 845 provides:

15 Neither a public entity nor a public employee is liable for failure to
16 establish a police department or otherwise to provide police protection
17 service or, if police protection service is provided, for failure to provide
sufficient police protection service.

18 53. California Government Code Section 900, et seq. set forth the requirements for
19 bringing a claim of the type herein alleged, to whatever extent, if at all, any of the claims of
20 Defendants can otherwise be brought. Furthermore, the County has passed an Ordinance with
21 respect to any claims to be brought against the County and/or Sheriff Anderson, a copy of which
22 Ordinance is attached hereto as **Exhibit "14"**. Defendants failed to comply with such claims
23 procedure and, therefore, are barred as a matter of law to bring said claims.

24 54. To the extent not already specifically alleged, Plaintiff asserts and claims all other
25 immunities from liability or damages as allowed by law.

26 55. Sheriff Anderson has exhausted his remedies as necessary by filing his Motion to
27 Dismiss before the Lewis Faction Tribunal. As alleged hereinabove, Plaintiff is entitled to the
28

1 relief requested herein and to otherwise be relieved of any threat of unlawful orders as now issued
2 by the Lewis Faction Tribunal and specifically by Defendant Duran.

3 56. The futility of proceeding before the Lewis Faction Tribunal and the bad faith
4 conduct occurring with respect to proceedings before the Tribal leadership dispute is resolved,
5 mandating no further action be held prior to relief being sought before this Court are reflected, inter
6 alia, by the following:

- 7 a. The manifest unconstitutionality, lack of authority and the
8 directives of the TRO now issued demonstrate both the immediacy
9 of the need for relief and the futility in further attempting to
10 dissuade the Defendants from proceeding in their pursuit of Sheriff
11 Anderson as occurring.
- 12 b. Sheriff Anderson (and the County Supervisors prior to their
13 dismissal) was not given proper notice prior to Defendants Duran
14 and Howard issuing a TRO against Sheriff Anderson. Moreover,
15 Defendant Duran failed to disclose his association with the law
16 firm (Rosette) appearing before him on behalf of the Lewis Faction
17 and failed to disclose his representation of the Tribe and CEDA.
- 18 c. Rosette holds itself out as legal counsel to the Tribe, CEDA and
19 CIHA as do the law firms representing the Ayala Faction and the
20 Reid Faction, as well as others. Plaintiff herein is informed and
21 believes that the Lewis Faction Tribunal Judge, Defendant Duran,
22 may currently hold himself out as legal counsel to the Tribe. (*See*
23 **Exhibit "15"**, indicating Defendant Duran is the Tribe's legal
24 counsel of record on trademark issues at same time holding himself
25 out to be a tribal judge and also an associate of Rosette LLP.)
26 Moreover, Defendant Duran is a sitting Supervisor for Placer
27 County whose oath of office is set forth in the California
28 Constitution conflicts with the oath of office taken by Defendant

1 Duran in his capacity as Tribal Court judge. Copies of the oaths of
2 office take by California County Supervisors as set forth in the
3 California Constitution, Article 20, Section 3, and Tribal Court
4 judges as set forth in the Tribal Court Ordinance, Section 16, are
5 attached respectively hereto as **Exhibits "16" and "17"**.

6 d. As earlier referenced, Defendants have failed to submit their
7 claims to mediation under the 2007 MOU or otherwise participate
8 in a mediation that took place on August 18, 2013, under the
9 guidance of mediator, Richard L. Gilbert, Judge Retired, even
10 though representatives of the Ayala and Reid Factions did attend
11 that mediation and counsel for the Lewis Faction had earlier stated
12 they would attend such a mediation.

13 e. The multiplicity of proceedings and lawsuits demonstrates that at
14 least three (3) different Tribal factions within the Tribe each claim
15 to be the *only* authority for Defendants, Tribe, CEDA and CIHA
16 and each claims to be in power. On its face, the Lewis Faction
17 Lawsuit along with its requested orders are a manifest device
18 trying to be used by one such faction to assist said faction in its
19 struggle to assert and/or gain power. Neither this Court nor
20 Plaintiff need be or should be subject to such abuses. No cause
21 exists to require Sheriff Anderson to continue further before the
22 Lewis Faction Tribunal. The Defendants have numerous other
23 venues ongoing in which to play out and/or address their internal
24 tribal disputes.

25 57. Plaintiff does not now and never have consented to be subject to the jurisdiction of
26 the Tribe or any Tribal Court, much less to a "Tribunal" established by one of several competing
27 factions within the Tribe at a time when neither the Tribe nor the Federal government agree on the
28 identity of the Tribe's leadership.

IV.

**THE HISTORY OF THE PICAYUNE RANCHERIA AND
RESULTING TRIBAL DISPUTES**

A. Tribal Recognition.

58. The California Rancheria Act of 1958 ("Rancheria Act") terminated many Indian tribes, including the Tribe named as a Defendant herein. As a result of the Act, the tribes ceased to exist and members of the former tribes were stripped of their status as Indians. When the Tribe was terminated under the Rancheria Act, its former lands were distributed to two individuals, Maryan Ramirez ("Ramirez") and her brother, Gordon Wyatt ("Wyatt"). Wyatt died in 1966.

59. In 1979, a class action lawsuit was filed in the United States District Court for the Northern District of California to challenge the termination of the trust relationship under the California Rancheria Act. (*Tillie Hardwick, et al. v. United States*, No. C-79-1710-SW (N.D. Cal. 1979).) *Hardwick* purportedly was filed on behalf of individual members of the former rancherias and 34 terminated rancherias, including the Picayune Rancheria of the Tribe.

60. On December 27, 1983, the court ruled that judgment be entered in favor of certain *Hardwick* plaintiffs according to the terms of a stipulation for entry of judgment filed by the parties thereto, on August 2, 1983 ("1983 Stipulation"). The 1983 Stipulation identified the Picayune Rancheria as one of 17 rancherias subject to its provisions and restored the Indian status of the named plaintiffs and other class members of the 17 rancherias.

61. According to an Order entered in *Hardwick*, attached hereto as **Exhibit "18"**, the Tribe did not take immediate action to organize its government after entry of the 1983 Stipulation. However, the Bureau of Indian Affairs ("BIA") began working with Ramirez to recognize the Tribe. Ramirez died in 1985 before the recognition had been completed. The BIA began working with Jane Lawhon ("Lawhon"), a descendant of Wyatt.

62. Lawhon and other Wyatt descendants gained control of Tribal leadership and the Tribe adopted a Tribal Constitution on November 7, 1988.

63. Beginning in 1989, the BIA recognized and worked with the Tribe's governing body and for approximately 20 years the Ramirez family never challenged the BIA's decision to certify

1 the Tribe's election. Approximately twenty years after the BIA recognized the Wyatt leadership and
 2 Tribal elections, the Ramirez family unsuccessfully sought to unwind the recognized governance.
 3 The internal conflict continues to this day as the descendants of the Wyatt and Ramirez families and
 4 others continue in their struggle for control of the Tribe.

5 **B. Approval of the Tribe's Gaming Compact.**

6 64. On September 10, 1999, the Tribe entered into a Tribal-State Compact with the State
 7 of California related to gaming ("Compact"). The Compact is attached hereto as **Exhibit "19"**.
 8 The Tribe submitted the Compact to the National Indian Gaming Commission for review, which
 9 was approved in or about 2000.

10 **C. The County and Tribe Settle Their Dispute and Enter Into the 2007 Settlement.**
 11 **Agreement and 2007 MOU.**

12 65. The Tribe completed construction of its Casino in 2003. The County re-assessed the
 13 value of the Picayune Rancheria ad valorem property tax liability and attempted to assess such
 14 taxes against the Tribe. The Tribe disputed the tax liability resulting in litigation in the U.S. District
 15 Court for the Northern District of California and the Madera County Superior Court.

16 66. On July 31, 2007, all of the land comprising the original Picayune Rancheria was
 17 placed back into trust held by the United States. The land now qualifies as "Indian land" pursuant
 18 to 25 U.S.C. §2703(4)(B).

19 67. As earlier referenced, the Tribe and the County settled their dispute and then entered
 20 into the 2007 MOU. Thereafter and through the present, Sheriff Anderson has acted in his official
 21 capacity and pursuant to other governing Federal and State laws, enforcing such laws during the
 22 period in which the matters at issue arose.

23 68. Since the signing of the 2007 MOU, Sheriff Anderson has been called frequently by
 24 both the Ayala Faction and the Lewis Faction regarding allegations of hostilities, violence, threats
 25 of violence and criminal activity perpetrated by the competing factions. Below are some examples
 26 of law enforcement services Sheriff Anderson has recently provided under the 2007 MOU, Public
 27 Law 280, and pursuant to his duties as the duly elected County Sheriff, as more fully set forth in
 28 the Declaration of Sheriff Anderson.

1 69. On February 21, 2013, Sheriff Anderson was contacted regarding a disturbance at
2 the Tribal Government Compound located on the Rancheria adjacent to the Casino. Two Sheriff's
3 deputies responded while two California Highway Patrol members stood by. There were
4 approximately fifteen (15) armed individuals present when the Sheriff's deputies arrived. Sheriff
5 Anderson was informed that there had been "a peaceful takeover" of the Tribal Council by the
6 Ayala Faction. Sheriff Anderson responded in an effort to keep the peace and prevent bloodshed.
7 Sheriff Anderson did not favor or choose sides in the conflict.

8 70. After the February 21, 2013 incident, the Ayala Faction, the Lewis Faction and the
9 Reid Faction continued to hold themselves out as the legitimate and exclusive leadership of the
10 Tribe.

11 71. Beginning in December of 2011, there began a series of election issues and disputes
12 which required Plaintiff's office to respond. Several tribal councils were sworn into office and the
13 intra-tribal conflicts increased and eventually another tribal election occurred on December 1, 2012.
14 This tribal council, called "Tribal Council No. 3" in the Declaration of Sheriff Anderson, fractured
15 into three (3) factions commonly referred to as the "Ayala Faction," the "Reid Faction" and the
16 "Lewis Faction" reflecting the name of each group's leader and purported "Chairman of the Tribe."

17 72. On or about February 24, 2013, the Lewis Faction demanded that Sheriff Anderson
18 remove the Ayala Faction from the Tribal Government Compound. Sheriff Anderson refused as it
19 was not clear which party was entitled to possession of the Tribal buildings. It was also unclear
20 under the 2007 MOU, whether Sheriff Anderson could, at the request of one group claiming to be
21 the Tribal government, forcibly remove another group that also claimed to be the Tribal government
22 from the Tribal Government Compound.

23 73. On February 26, 2013, Sheriff Anderson learned that the Lewis Faction's armed
24 security contractor, under orders from the Lewis Faction, was planning a forcible armed takeover of
25 the Tribal Government Compound and that the Lewis Faction's armed security contractor was
26 recruiting men from the surrounding community to join in the takeover operations. Sheriff
27 Anderson is informed and believes, and based thereon, alleges that the Lewis Faction caused its
28

1 hired armed security contractor to procure dump trucks, a helicopter and armed recruits to be used
2 in the hostile takeover of the Tribal Government Compound by force or violence.

3 74. The situation posed a serious and substantial risk of injury and/or death to those
4 involved as well as to non-Indians. Pursuant to the 2007 MOU and Public Law 280, and consistent
5 with governing law and his authority (as were all of his actions at issue), Sheriff Anderson
6 marshaled forces from his department, the California Department of Justice, the Fresno Police and
7 Sheriff's Departments and Mariposa Sheriff's Department. Sheriff Anderson's efforts deterred the
8 threatened unlawful, armed and violent conflict, but at a cost of approximately \$70,000 to the
9 County and local taxpayers.

10 75. On March 29, 2013, the Lewis Faction again sought Sheriff Anderson's assistance
11 regarding a process server that the Lewis Faction hired to serve legal papers on Sargosa, an Ayala
12 Faction member. The process server alleged that Sargosa was armed with a "big barbecue knife"
13 with a twelve inch blade. The process server alleged that Sargosa threatened him with the knife.

14 76. The Sheriff's department investigated the alleged incident. Sargosa informed a
15 Sheriff's deputy that he had been using a folding hand saw to cut wood near his porch when the
16 process server arrived. Sargosa denied threatening the process server. The deputy observed a
17 folding hand saw at Sargosa's home, but did not see the type of knife described by the process
18 server.

19 77. Another incident alleged by members of the Lewis Faction occurred on April 21,
20 2013, when the Lewis Faction attempted to serve an Ayala Faction member, Brechbuehl, with court
21 documents. The Lewis Faction contacted the Sheriff's department seeking assistance and alleging
22 that a male verbally threatened its process servers, chased after them and fired six gunshots. In
23 response to this report by the Lewis Faction, Sheriff's deputies and a detective investigated and
24 determined that there were conflicting statements from the parties. An independent witness stated
25 he did hear three gunshots, but that the shotgun shots had been fired by a neighbor living up the hill.

26 78. The Sheriff's department has received numerous complaints from Tribal members
27 about the security company, Zak's Security, that has been hired by the Lewis Faction and which
28 allegedly has been denominated by the Lewis Faction as "Tribal Police". The complaints are that

1 these armed security forces while on the Rancheria and elsewhere dress in "storm trooper" or
 2 "SWAT-like" uniforms with tactical vests, carry multiple firearms, including what have been
 3 described as "long guns" and side arms. There have been claims that Zak Security forces acting at
 4 the direction of the Lewis Faction at times treat people in an intimidating and threatening manner.

5 79. All of the incidents discussed above, including the violence and the requests of
 6 Tribal members, for both off and on Rancheria law enforcement assistance, have placed a strain on
 7 the County and Sheriff.

8 80. Sheriff Anderson has had no guidance, aid or assistance from Federal agencies, law
 9 makers, or authorities despite repeatedly requesting such assistance.

10 81. Without Federal assistance, the task of preventing bloodshed, homicide and armed
 11 conflict has fallen solely on Sheriff Anderson, with backup as needed from State and surrounding
 12 county officers.

13 V.

14 THE CIHA DISPUTE

15 82. CIHA was formed for the primary purpose of participating in the Federal affordable
 16 housing programs offered by HUD. CIHA's Ordinances and its Articles of Incorporation ("CIHA
 17 Ordinances") is attached hereto as **Exhibit "20"**.

18 83. CIHA provides many types of housing assistance to low income Tribal members,
 19 including lease-to-own houses, low income rentals, housing and utility assistance grants and
 20 housing repairs. CIHA has expended and requires additional funds for two major projects currently
 21 underway. In one project, CIHA has acquired through the Federal Emergency Management Agency
 22 six housing units. CIHA is currently in the process of preparing sites and foundations to install
 23 these housing units which will provide emergency and transitional housing for homeless Tribal
 24 members. Plaintiff is informed and believes, and based thereon, alleges there are currently 29
 25 homeless Tribal members on a waiting list to occupy these units. In the other project, CIHA is
 26 purchasing two parcels of land for an 88-unit affordable housing rental development. CIHA has
 27 already expended substantial sums performing environmental studies and applying for necessary
 28 zoning changes from the County.

1 84. Recipients of HUD's Indian Housing Block Grants, such as CIHA, access HUD
2 funds through the electronic funds transfer system operated by the Office of Native American
3 Programs called the Line of Credit Control System or LOCCS.

4 85. Section 4.1 of the CIHA Ordinances state that the CIHA Board shall consist of five
5 members who are enrolled members of the Tribe. Pursuant to Section 4.5 of the CIHA Ordinances,
6 Commissioners serve for two year terms.

7 86. Sections 2.8 and 4.2 of the CIHA Ordinances state that the powers of the CIHA
8 Board include, but are not limited to, authority to "enter into agreements, contracts and
9 memorandums of understanding with any Federal, state or local governmental agency or with any
10 person, partnership, corporation or Indian Tribe as necessary to carry out the [CIHA's] duties and
11 responsibilities set forth in this Ordinance."

12 87. On or about October 1, 2012, CIHA, as Tenant, entered into a Rental Agreement
13 ("Lease") with the Bradford D. Ditton Trust Dated December 2, 2004 ("Landlord") for office space
14 located at 32011 Meadow Ridge Road, Coarsegold, California 93614 ("CIHA Building"). The
15 CIHA Building is located approximately one mile from the Tribal Government Compound.
16 However, the CIHA Building is located on private land and is not Tribal, Trust, or Rancheria land.
17 A true and correct copy of the Lease is attached hereto as **Exhibit "21"**.

18 88. CIHA occupied the CIHA Building serving its low income Tribal members and
19 dispersing federal funds without incident until the Tribal governance dispute between the Tribal
20 factions erupted. It operated without incident according to its Ordinances and Articles of
21 Incorporation. There was no dispute as to who were the duly appointed members of CIHA's Board
22 of Directors until recently, as will be discussed further below. All records necessary to service the
23 intended beneficiaries of CIHA were kept in the CIHA Building and were necessary to effectuate
24 the purpose of CIHA and to properly administer funds received from the Federal government and
25 others.

26 89. According to CIHA's Ordinances, CIHA is an entity separate from the Tribe and is
27 governed by a five member Board of Commissioners ("Board"), appointed by the Tribe's Tribal
28 Council. The CIHA Ordinances were adopted by Resolution No. 2012-48 on March 15, 2012. On

1 that same day, three of the five members of the Board (Helen Flores (“Flores”), Michael Wynn
2 (“Wynn”) and Orianna Walker (“Walker”) were appointed for two year terms ending on February
3 28, 2014, by Resolution No. 2012-50. A true and correct copy of the Resolution No. 2012-50 is
4 attached hereto as **Exhibit “22”**.

5 90. On April 22, 2013, in Resolution No. 2013-99, the Ayala Faction (consisting of a
6 quorum of the Tribal Council that had been elected at the December 1, 2012) appointed Cheryl
7 Aleman and David Jimenez to two year terms on CIHA Board, commencing on April 22, 2013, and
8 ending on February 23, 2015. A true and correct copy of the Resolution No. 2013-99 is attached
9 hereto as **Exhibit “23”**.

10 91. The Tribe, by adoption of Resolution No. 2012-50, signed by Defendant Lewis, the
11 undisputed Chairman at that time, on March 15, 2012—well before the current Ayala Faction/Lewis
12 Faction/Reid Faction dispute—appointed Flores, Wynn and Walker to the CIHA Board, with terms
13 commencing on March 15, 2012 and ending on February 25, 2014.

14 92. On May 21, 2013, members of the Lewis Faction and its armed “security” contractor
15 arrived at the CIHA building and attempted an armed takeover of CIHA’s operations. The Ayala
16 Factions’s armed security force confronted the Lewis faction’s armed representatives and security
17 contractors. The Sheriff’s deputies arrived at the CIHA building to prevent violence and armed
18 conflict.

19 93. Because of the Tribal leadership dispute, it was initially unclear to Sheriff Anderson
20 which group should have access to the CIHA building.

21 94. During the morning hours of May 21, 2013, the Sheriff’s deputies met with the two
22 factions that were claiming the right to occupy the CIHA building--the Ayala Faction and the Lewis
23 Faction . The Ayala Faction and the Lewis Faction voluntarily agreed that both factions would
24 leave the CIHA building vacant until it was determined who was entitled to occupy the building.

25 95. Later on the day of May 21, 2013, Ayala Faction members, who had most recently
26 occupied the CIHA building and had a key to the building, returned to the CIHA building and
27 removed personal items. Consequently, the Lewis Faction’s armed security forces and the Ayala
28 Faction’s armed security faced off yet again.

96. As a result of the confrontation and in order to diffuse a tense and potentially violent situation, Sheriff Anderson requested that the CIHA building be vacated until such time that the issue of which group was entitled to occupy the CIHA building could be resolved. Both sides agreed to refrain from entering the CIHA building and agreed that a Sheriff's deputy would remain on the premises until it could be determined which group was entitled to occupy the CIHA building.

97. In order to maintain peace and order, a Sheriff's deputy was thereafter stationed at the CIHA building, twenty four hours a day, seven days a week, at a total cost to the County and local taxpayers of approximately \$72,000.

98. The Lewis Faction rented the vacant lot adjacent to the CIHA building and also stationed an armed security guard at the CIHA building, twenty four hours a day, seven days a week.

A. Letters from the BIA and HUD Confirm the Sitting Board of CIHA Had Authority as Did the Existing Tribal Council.

99. On May 16, 2013, the BIA formally recognized the Tribal Council that had been elected at the December 1, 2012 Tribal election which was the Tribal Council that existed prior to the current internal dispute ("BIA's May 16th Letter"). A true and correct copy of the BIA's May 16th Letter is attached hereto as **Exhibit "24"** and incorporated herein by this reference. The December 1, 2012 Tribal Council included current competing faction leaders Ayala and Defendant Lewis.

100. The BIA's May 16th Letter was in reply to an application submitted to by the Reid Faction to the BIA. In the BIA's May 16th Letter, the BIA noted that there were several different people claiming to be representatives of the Tribe for the purpose of communicating with the BIA for government-to-government matters. As stated above, the BIA's May 16th Letter states that the BIA *recognizes the individuals elected into office at the December 1, 2012, Tribal election as the governing body authorized to conduct government-to-government business.* The BIA, therefore, recognized the December 2012 Tribal Council as the lawful Tribal Council.

101. HUD also addressed the issue of recognized Tribal leadership in a letter to Ayala, dated June 6, 2013 ("HUD's June 6th Letter"). This letter stated that HUD had deferred to the

1 BIA's determination and recognized the December 12, 2012 Tribal Council as the lawful Tribal
 2 Council, (the Ayala Faction controlled council, not the Lewis Faction). Furthermore HUD stated it
 3 would allow Ayala (and those in control of CIHA at the CIHA Building) access to LOCCS which is
 4 the vehicle for accessing HUD grant funds. A true and correct copy of HUD's June 6th Letter is
 5 attached hereto as **Exhibit "25"** which states, in part, as follows:

6
 7 After receiving correspondence from different groups regarding the make-
 8 up of the Tribe's Tribal Council, the Southwest Office of Native American
 9 Programs (SWONAP) in a letter dated May 30, 2013 requested additional
 10 information that verified who the recognized Tribal Council
 11 representatives for the Picayune Rancheria were. *It is HUD policy to defer*
 12 *to the Department of Interior, Bureau of Indian Affairs (BIA) on issues*
 13 *relating to the official recognition of a tribal government.* On June 3,
 14 2013, you provided HUD with information demonstrating that the BIA
 15 continues to recognize you as the Tribal Chairperson. *At the present time,*
 16 *we are deferring to this determination by the BIA...*SWONAP remains
 17 concerned about the continued disagreements with other tribal members
 18 and intends to ensure that only authorized persons may access Chukchansi
 19 Indian Housing Authority's HUD funds (*emphasis added*).

20 102. There is no dispute that as of June 6, 2013, the Indian housing authority that was
 21 recognized by HUD was, in fact, the CIHA operating under the Ayala Faction, as stated in HUD's
 22 June 6th Letter. Three members of the CIHA Board were Flores, Wynn and Walker, appointed
 23 prior to the leadership dispute, who had been engaging with HUD for the purpose of government-
 24 to-government business.

25 103. Since the May 21, 2013 confrontation between the Ayala Faction and the Lewis
 26 Faction regarding occupancy of the CIHA Building, CIHA had not been able to access its files
 27 within the CIHA building that were necessary for the administration of CIHA's low income
 28 housing programs. Sheriff Anderson was informed by CIHA's independent counsel that if CIHA
 failed to comply with HUD requirements as a result of CIHA's inability to access the documents
 and computers within the CIHA building, CIHA and, more importantly, the Tribal members
 receiving HUD assistance would risk the loss of HUD funding as a result of noncompliance with
 HUD regulations.

///

1 104. Sheriff Anderson came to be in receipt of the BIA's May 16th Letter and HUD's
 2 June 6th Letter and the Lease for the CIHA building which confirmed that it was CIHA, not the
 3 Tribe as such, that was entitled to the premises and property contained therein. Based on the
 4 foregoing, Sheriff Anderson could not prevent the CIHA Board recognized by HUD and Southwest
 5 Office of Native American Programs ("SWONAP") at that time from accessing CIHA's own
 6 documents and computers held within the CIHA building. Sheriff Anderson had no legal authority
 7 to override or reject the determination of HUD which was based upon the determination of the
 8 BIA.

9 105. Attorney David Rapport, counsel to the CIHA recognized by HUD at the time, sent
 10 Sheriff Anderson a letter, dated July 18, 2013, describing the dire consequences that could result
 11 because of CIHA's inability to access its files ("Rapport's July 18th Letter"). A true and correct
 12 copy of Rapport's July 18th Letter is attached hereto as **Exhibit "26"** and incorporated herein by
 13 this reference. According to Rapport's July 18th Letter:

14
 15 CIHA and its current staff are drawing down and using HUD funds,
 16 pursuant to the June 6 decision by Carolyn J. O'Neil, Administrator of the
 17 Southwest Office of Native American Programs, to continue the
 18 administration of the Tribe's housing program and to comply with the
 19 extensive federal regulations governing the use of those funds. . . The
 20 Interim CIHA Executive Director informs me that lack of access to
 21 CIHA's files remaining on the leased premises disrupts its ability to
 22 administer the Tribe's low income housing program and places it in a
 23 situation of potentially breaching the applicable Federal requirements
 24 CIHA is charged with maintaining and protecting confidential, personal
 25 and financial documents of Tribal members which are used to evaluate
 26 and monitor grant funding requirements. Currently, CIHA has 27 homes
 27 that it manages using NAHASDA Grants. The files are predominantly
 28 tenant files containing the signed original lease agreements, tenant
 background investigations, historical records, current contracts, ongoing
 work orders and all other records pertaining to each house and each tenant.
*Without access to these files CIHA cannot enforce leases, collect and
 recover rent, document each tenant's income eligibility under NAHASDA
 and perform many other functions essential to the Tribe's housing
 program. This is a precarious position for the CIHA to be placed in with
 the potential of committing (sic) breaches of policies, grants and Federal
 guidelines.*

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1800 East Tahquitz Canyon Way
Palm Springs, CA 92262

1 Additionally, several large projects are currently being developed with
2 critical deadlines. One such project is a \$6 Million development that is
3 being placed at risk. August 6th is the public hearing on this project and
4 will be followed by closing escrow and futher (sic) negotiations. *As*
5 *deadlines approach, CIHA is deprived of access to orignal (sic) contracts,*
6 *studies, plans and specifications for structures, along with other vital*
7 *information necessary to continue this project.*

8 At the present time, the CIHA is undergoing the annual audit required by
9 NAHASDA. Computer files and procurement processes conducted on
10 various projects along with historical records required for and used in
11 ongoing projects are inaccessible. *The CIHA is compelled to operate*
12 *without the supporting documents essential for the audit or guidance of*
13 *significant and necessary banking records, historical accounts receivable,*
14 *accounts payable, and bank reconciliation records, again risking a breach*
15 *of grants, policies and hindering CIHA's ability to respond to audit*
16 *questions.*

17 *CIHA must have access to operational and historic files immediately.*
18 *Without these files current projects will fail and the rental houses along*
19 *with the tenants (sic) eligibility will continue to suffer and place the Tribe*
20 *at risk of losing grant funding or incurring (sic) audit findings. (Emphasis*
21 *added.)*

22 106. As earlier referenced in Paragraph 42 above, on July 24, 2013, CIHA on one hand
23 and the County and Sheriff Anderson on the other hand, entered into the CIHA Agreement. The
24 CIHA Agreement confirms that CIHA is legal entity created by the Tribe that is governed by and
25 independent Board. The Board in control of CIHA at the time of the agreement was earlier
26 established before the disputes arising over control of the Tribe between the Ayala Faction and the
27 Lewis Faction. It confirmed the authority of CIHA to enter into the CIHA Agreement with Sheriff
28 Anderson and the County. Paragraph 13 of the CIHA Agreement includes an acknowledgment that
the sole jurisdiction for CIHA to enforce the CIHA Agreement or to interpret it rests solely with
the Madera County Superior Court, and not the Lewis Faction Tribunal or any other Tribal Court
of the Tribe. Plaintiff alleges that portions of the Lewis Faction Lawsuit effectively challenge and
attempt to avoid and bring actions contrary to the express terms of the CIHA Agreement by which
all Defendants are bound.

///

///

107. The Indian housing authority that had been recognized by HUD removed its personal property from the CIHA building on July 26, 2013 and delivered it to the Tribal Government Compound without violence or breach of the peace. Immediately thereafter, the Sheriff's deputies that had been assigned to the CIHA building resumed their customary duty of providing law enforcement services in other County areas.

108. After the HUD- and BIA-recognized Indian housing authority had removed its personal property from the CIHA building on July 26, 2013, HUD sent a letter addressed to Phil Bush, a consultant retained by the Ayala-led CIHA, dated July 29, 2013 ("HUD's July 29th Letter"). A true and correct copy of HUD's July 29th Letter is attached hereto as **Exhibit "27"** and incorporated herein by this reference. In HUD's July 29th Letter, HUD states:

[SWONAP] is providing you this letter as a courtesy to confirm, per your request, that the SWONAP still has a work relationship/partnership with the Chukchansi Indian Housing Authority (CIHA), of Coarsegold, CA, in the administration of the Native American Housing Assistance and Self Determination Act (NAHASDA). *The SWONAP works directly with Acting Executive Director Don Citbor; Bookkeeper Kerry Donaldson; and CIHA Board of Commissioners Chairperson Michael Wynn. (Emphasis added.)*

109. According to HUD's July 29th Letter, HUD reaffirmed its recognition of the CIHA Board of which Wynn was the chair and, at a minimum, Flores and Walker were members—this was HUD's determination and not the determination of either the County or Sheriff Anderson. Because there was a CIHA Board recognized by HUD at the time, Sheriff Anderson had no lawful basis to deny this recognized body access to the CIHA building.

110. Nearly one (1) month after the HUD-recognized CIHA had removed its personal property from the CIHA building and HUD's July 29th Letter confirming the Ayala-led CIHA was the proper entity for purposes of government-to-government business with HUD, HUD sent a letter to Don Citbor, Executive Director of the Ayala-led CIHA, dated August 22, 2013. A true and correct copy of HUD's August 22nd Letter is attached hereto as **Exhibit "28"** and incorporated herein by this reference. According to HUD's August 22nd Letter, HUD stated that it had recently been notified that the determination set forth in the BIA Letter, dated May 16, 2013...

1
2 is currently being appealed at the BIA. Because this appeal is still
3 pending, the BIA informed us that, *in accordance with 25 C.F.R. § 2.6,*
4 *there is no BIA decision regarding the recognition of the Tribal*
government that is currently in effect.

5 Thus, *until a final determination is made by the BIA, the make-up of the*
6 *Tribal government of the Picayune Rancheria of Chukchansi Indians*
7 *remains uncertain.* HUD is particularly concerned about the conflicting
8 information that HUD has received from different factions regarding the
9 membership of the Board of Commissioners of CIHA. This conflicting
10 information is a direct result of the dispute that is ongoing at the Tribal
11 government level. HUD must have assurances that a BIA-recognized
12 Tribal government exists, and that it has lawfully appointed the Board of
Commissioners for CIHA. Moreover, HUD must ensure that all users
approved to access LOCCS under an approved Form HUD-27054 are in
fact authorized and properly designated by a recognized official of the
tribe or CIHA.

13 To ensure that the tribe's [Indian Housing Block Grant ("IHBG")] funds
14 are accessed only by authorized individuals, all current LOCCS users are
15 hereby prohibited from accessing LOCCS. HUD is revoking its approval
16 of all previously approved HUD-27054 forms submitted on behalf of
CIHA. (*Emphasis added.*)

17 111. Based on HUD's August 22nd Letter, the BIA and HUD have recently changed their
18 positions and are no longer recognizing any Tribal Council or CIHA Board. Plaintiff alleges that
19 this confirms that Defendants, and each of them, have no authority to either file the Lewis Faction
20 Lawsuit or to otherwise proceed in the Lewis Faction Tribunal as is occurring and will continue to
21 occur absent rulings by this Court.

22 112. On September 4, 2013, the BIA sent a letter to Defendant Lewis, dated September 4,
23 2013 ("BIA's September 4th Letter"). A true and correct copy of BIA's September 4th Letter is
24 attached hereto as **Exhibit "29"** and incorporated herein by this reference. According to the BIA's
25 September 4th Letter, the BIA indicated that because of the appeal filed in regards to the BIA's May
26 16th Letter, the BIA is not permitted to engage with any of the factions, including the Lewis
27 Faction, for the purpose of government-to-government business. The BIA is not recognizing any
28 government of the Tribe.

VI.

RECENT AND RELATED LITIGATION AND PENDING ADMINISTRATIVE APPEALS**A. "Tribal Court" Litigation.**

113. During the current Tribal leadership dispute, the Ayala Faction has been operating its own Ayala Faction Tribunal or Court and the Lewis Faction has been operating its own Lewis Faction Tribunal or Court. Although the Reid Faction also claims to be the Tribal government, it is not believed that the Reid Faction is operating its own Faction Tribunal at this time.

114. The Ayala Faction has filed lawsuits addressing the status of the Lewis Faction and others in the Ayala Faction Tribunal. The Lewis Faction has filed lawsuits against the Ayala Faction and others in the Lewis Faction Tribunal. Aside from the Lewis Faction Lawsuit at issue here, which names Ayala, Brechbuehl, K. Wynn, and Sargosa, in addition to Sheriff Anderson and now dismissed County Supervisors, there is another lawsuit filed by the Ayala Faction. Attached hereto are the Temporary Restraining Order, entered on March 15, 2013 ("March 15th TRO"), and the Preliminary Injunction, entered on March 29, 2013 ("March 29th Injunction"), by the Ayala Faction Tribunal in the Rabobank Case. The March 15th TRO and March 29th Injunction are attached hereto respectively as **Exhibits "30"** and **"31"**. On March 29, 2013, Judge Moller, in the Preliminary Injunction, found that the Ayala Faction represented a quorum of the undisputed Tribal Council that had been elected on December 12, 2012, and thus, was the lawful Tribal Council.

B. The U.S. National Indian Gaming Commission Action Pending in the District of Columbia.

115. On March 29, 2013, the Reid Faction, in the name of the Tribe, filed an action against the U.S. National Indian Gaming Commission in the U.S. District Court for the District of Columbia (1:13-cv-00411-RWR) ("Gaming Commission Case"). In the Gaming Commission Case, the Reid Faction alleges that the Reid Faction, consisting of Reid, "Dora Jones, Dixie Hammond and Harold Hammond, Jr. comprise the voting majority of the Tribe's seven-member governing body, its Tribal Council." A copy of the amended complaint filed in the Gaming Commission Case is attached hereto as **Exhibit "32"**.

1 116. According to the Reid Faction, the U.S. Gaming Commission had improperly
2 engaged in government-to-government relations with the Lewis Faction regarding the Casino,
3 which the Reid Faction alleged, was “not the duly-elected and legitimate governing body of the
4 Tribe.”

5 117. The Reid Faction is seeking “orders from the Court declaring invalid and setting
6 aside the Commission’s actions concerning [the Reid Faction’s] Gaming Ordinance amendments
7 and its actions recognizing the Lewis Group.”

8 **C. The Wells Fargo Action pending in the Supreme Court of the State of New York.**

9 118. On June 18, 2013, Wells Fargo Bank, N.A. filed an action against the “Chukchansi
10 Tribe”, several entities of the Tribe, Rabobank, Global Cash Network, and Ayala, Brechbuehl,
11 Wynn, Sargosa, Lewis, Alberta, Bushman, and Bank of America, N.A. in the Supreme Court of the
12 State of New York (Index No. 652140/2013) (“Wells Fargo Case”). A copy of the complaint filed
13 in the Wells Fargo Case is attached hereto as **Exhibit “33”**. The Wells Fargo Case arises out of the
14 Tribe’s alleged failure to make interest payments to the holders of \$250 million in secured notes
15 because of the Tribal leadership dispute. According to the Complaint in the Wells Fargo Case, in
16 the Security Agreement entered into by the Tribe’s entity known as CEDA, CEDA consented to the
17 jurisdiction of the Supreme Court of the State of New York. According to the Wells Fargo Case,
18 the CEDA Board of Directors is made of the members of the Tribal Council. In other words, the
19 CEDA Board membership mirrors the Tribal Council membership.

20 119. In the Wells Fargo Case, the Ayala Faction has made an appearance and claims to be
21 the CEDA Board while at the same time the Lewis Faction has made an appearance and claims to
22 be the CEDA Board. The New York court has yet to make any determination on this issue, but
23 apparently all parties, excluding the Reid Faction, have submitted this issue and concede
24 jurisdiction of the New York court to consider this issue.

25 120. On July 19, 2013, the Lewis Faction filed a Cross-Claim against the Ayala Faction in
26 the Wells Fargo Case, requesting, among other things, that the Supreme Court of the State of New
27 York declare that the CEDA Board is comprised of Reggie Lewis, Chairman; Carl “Bushman, Vice
28

Chairman; Irene Waltz, Secretary; Chance Alberta, Treasurer; David Castillo, Member-at-Large; Lynn Chenot, Member-at-Large; and Melvin Epse, Member-at-Large. That case remains pending.

D. Yosemite Bank Action in the Northern District of California

121. On May 30, 2013, the Tribe, as represented by the Ayala Faction, commenced a lawsuit in the U.S. District Court for the Northern District of California against Yosemite Bank, United Security Bank, Lewis, as Tribal Council Vice-Chairperson, Alberta, as Tribal Council Member-at-Large, and Bushman, as Tribal Council Member-at-Large (1:13-cv-00831-LJO-MJS) ("Yosemite Bank Case").

122. According to paragraph 2 of the March 29th Injunction by the Ayala Faction Tribunal:

The Court declares that the governing body of the Chukchansi Tribe is the seven member Tribal Council consisting of Nancy Ayala, Chair; Reggie Lewis, Vice Chair; Tracey Brechbuehl, Secretary; Karen Wynn, Treasurer; Charles Sargosa, Council Member at Large, Chance Alberta, Council Member at Large, and Carl Bushman, Council Member at Large. Pursuant to Article VI, Section 2, of the Constitution, the Tribal Council can only conduct business where a quorum of four members of the Tribal Council is present. In light of the dispute between the group of Tribal Council members consisting of Ayala, Brechbuehl, Wynn and Sargosa ("Ayala Group") and the group of Tribal Council members consisting of defendants Lewis, Alberta, and Bushman ("Lewis Group"), the Court declares that, because only the Ayala Group can establish a quorum of the Tribal Council, the Ayala Group constitutes the current Tribal Council authorized to act as the lawful governing body of the Chukchansi Tribe. (Emphasis added.)

123. The Lewis Faction and the Reid Faction had both filed Motions to intervene in the Yosemite Bank Case. A voluntary dismissal without prejudice was filed on September 12, 2013.

E. Matthew Olin / CEDA Action in the Madera County Superior Court

124. CEDA is the entity that holds title to and operates the Casino of the Tribe. After the Ayala Faction and Lewis Faction fracture, the Ayala Faction continued to control CEDA, and operate the Casino, and claimed to be the lawful tribal authority. CEDA, for reasons unknown to Plaintiff, terminated the services of Matthew Olin ("Olin"), the General Manager of the Casino, who apparently had a management contract with CEDA which he claimed was breached thereby. The Lewis Faction, without notice or participation by the Ayala Faction entered into a Stipulation

1 for Entry of Judgment in favor of Olin, in the sum of \$725,000, in the matter entitled *Matthew Olin*
 2 *v. Chukchansi Economic Development Authority* (Madera County Superior Court, Case No.
 3 MCV062912). A copy of the Stipulation for Entry of Judgment and Judgment pursuant to
 4 Stipulation are attached respectively hereto as **Exhibits “34”** and **“35”**.

5 125. Counsel for Olin then caused to be issued a Writ of Execution whereby Sheriff
 6 Anderson is directed to enforce the Judgment by levying on the assets of CEDA. A copy of the
 7 Writ of Execution is attached hereto as **Exhibit “36”**. This Writ of Execution was served upon
 8 Sheriff Anderson on or about June 6, 2013 with instructions to levy. The instructions are to seize
 9 revenues generated by the Casino; that is, a “till tap” has been requested.

10 126. The Ayala Faction, contending it to be the lawful representative of CEDA, never
 11 agreed to such a Judgment or Writ of Execution, has now filed a Notice of Motion and Motion to
 12 Vacate the Stipulated Judgment, or in the alternative, Motion to Quash Summons, or in the
 13 alternative, Motion to Dismiss Action, and an Order thereon (“Motion to Quash”), and
 14 Memorandum of Points and Authorities filed in support of the Motion to Vacate the Stipulated
 15 Judgment (“Points and Authorities”). The Motion to Quash and Points and Authorities, attached
 16 respectively hereto as **Exhibits “37”** and **“38”**, were purportedly filed by “the true Chukchansi
 17 Economic Development Authority (“CEDA”) for the Picayune Rancheria of Chukchansi Indians,
 18 and more specifically CEDA Board members Nancy Ayala, Tracey Brechbuehl, Charles Sargosa
 19 and Karen Wynn (“Tribal Quorum”).” The Points and Authorities outline in detail the matters at
 20 issue and the effect upon Sheriff Anderson. In the Points and Authorities, at Page 3, Line 6, it is
 21 alleged, “Currently, there is a dispute over who constitutes the Board of Directors for CEDA.”

22 127. The Writ of Execution in Olin is at odds with the Lewis Faction Tribunal’s TRO.
 23 The TRO obtained by the Lewis Faction “on behalf of” CEDA apparently objects to Sheriff
 24 Anderson carrying out his duties as Sheriff regarding Tribal assets, which would include executing
 25 on CEDA’s money at the Casino pursuant to Olin’s Writ now served on Sheriff Anderson.

26 ///

27 ///

28 ///

F. Effect of Related Litigation and Proceedings.

128. The combined effect of these lawsuits and proceedings demonstrates unquestionably that there is no recognized tribal authority presently in control of the Tribe; that there is no basis or authority for the Lewis Faction Lawsuit to be filed and/or the Lewis Faction Tribunal to issue any orders against Sheriff Anderson, and that Defendants herein should be ordered to cease and desist in all such legal proceedings against Sheriff Anderson.

VII.

FIRST CLAIM FOR RELIEF

(Declaratory Relief against All Defendants)

129. Plaintiff re-alleges and incorporates by reference paragraphs 1-128 above.

130. An actual controversy has arisen and now exists relating to the respective rights, duties and obligations of the parties herein with respect to the events and agreements hereinabove alleged. Plaintiff contends as follows:

- (a) Pursuant to *28 U.S.C. Sections 2201 and 2202* Plaintiff is entitled to a declaratory judgment on the terms and conditions herein alleged;
- (b) This Court has jurisdiction over the subject matter of this case pursuant to *28 U.S.C. Section 1331* because the Complaint herein raises issues under Federal Law including, but not limited to, claims arising under the Eleventh, First, Sixth, and Fourteenth Amendments to the United States Constitution as well as Public Law 280;
- (c) They claims set forth in the Lewis Faction Lawsuit before the Lewis Faction Tribunal are without force or effect and are otherwise void;
- (d) No tribal court of the Tribe including, but not limited to, the Lewis Faction Tribunal has jurisdiction over Plaintiff and there is not even a colorable claim of jurisdiction existing in the case before this Court;
- (e) It is beyond the power of any Tribe or its related entities including, but not limited to, a tribal court including the Lewis Faction Tribunal to regulate,

1 direct, limit or restrict Plaintiff in any way in the performance of his duties as
2 Sheriff of Madera County;

3 (f) The TRO of Defendant Duran and all requested relief of Defendants is void
4 and unenforceable as it impermissibly divests and infringes on the powers of
5 Plaintiff as Sheriff and abrogated and delegates duties solely within his
6 purview in violation of both Federal and California State law;

7 (g) Plaintiff is entitled to all governmental protections and immunities provided
8 under California law including but not limited to those afforded him under
9 Civil Code Section 47(A) and Government Code Sections 810 et seq. 815,
10 820.2, 845, 846 and 900 et seq.;

11 (h) No basis exists for this Court to refrain from granting Plaintiff's requested
12 relief and overwhelming evidence exists the relief requested by Plaintiff is
13 merited and that the TRO must be vacated and orders issued dismissing the
14 Lewis Faction Lawsuit immediately;

15 (i) The TRO obtained by Defendants and any requested relief therefrom or
16 thereafter as requested in the Lewis Faction Lawsuit poses an imminent and
17 irreparable threat to public safety and would otherwise compel Plaintiff to
18 unlawfully perform his duties or refrain from performing his duties under the
19 control of a tribal court judge;

20 (j) Plaintiff has no adequate remedy at law and irreparable harm will result in
21 the absence of the relief being granted as requested by Plaintiff;

22 (k) No just cause exists to require this Court to refrain from issuing its rulings or
23 to subject any longer the Plaintiff to proceeding before the Lewis Faction
24 Tribunal, whether or not it is now or in the future will be recognized as the
25 tribal court of the Tribe which it cannot demonstrate it is at the present time
26 and thus cannot be said to have any authority to do anything on behalf of the
27 Tribe much less issue orders as has Defendant Duran, to date;
28

- (l) By reason of the manner in which Defendants have proceeded to date and by reason of the terms of the TRO and the relief requested, Defendants are acting in bad faith as herein above alleged;
- (m) Defendants were required to seek any relief under the 2007 MOU applicable to law enforcement issues which are included within the claims of Defendants as alleged in the Lewis Faction Lawsuit and that failure provides a further basis to conclude a tribal court including the Lewis Faction Tribunal was without jurisdiction to proceed in the manner occurring and Plaintiff herein as Sheriff of Madera County impacted by such 2007 MOU is entitled to the benefits thereof and the jurisdictional submission of the Tribe to this Court's jurisdiction regarding matters relating thereto;
- (n) With respect to the claims of CIHA, Defendants also must abide by same and cannot bring any claims in tribal court as occurring having agreed to proceed in California State Court;
- (o) Plaintiff is entitled to recover his reasonable attorneys' fees and costs in connection with this litigation including but not limited to recovery of all fees and costs incurred in bringing his unsuccessful motion to dismiss before the Lewis Faction Tribunal; and
- (p) Any and all declarations necessary and appropriate to adjudicate the matters arising under the facts of this case.

131. Defendants, and each of them, contend the opposite with respect to all of Plaintiff's contentions as set forth herein and deny the right or necessity of Plaintiff to obtain the requested rulings and relief sought herein.

132. By this Complaint, Plaintiff likewise seeks an Order from this Court enjoining the Lewis Faction Tribunal from proceeding to hear the claims being asserted against them by Defendants and further enjoining all of Defendants from, directly or indirectly, continuing to prosecute and/or assist in the prosecution those claims.

133. Pursuant to 28 U.S.C. §§ 2201 and 2202, Plaintiff is entitled to a declaratory

1 judgment confirming its contentions as alleged above and declaring void and unenforceable the
 2 TRO issued by Defendant Duran and providing a basis also to order the Lewis Faction Lawsuit
 3 dismissed and/or without force or effect.

4 VIII.

5 SECOND CLAIM FOR RELIEF

6 (Prohibitory Injunction — Prohibiting Defendants from
 7 Exercising Jurisdiction over Sheriff Anderson)

8 134. Plaintiff re-alleges and incorporates by reference paragraphs 1-132 above.

9 135. Plaintiff is informed and believes and thereon alleges based on the verified
 10 allegations set forth herein, in addition to any verified supporting declarations and evidence
 11 hereinafter filed, Plaintiff is entitled to a temporary restraining order, preliminary and permanent
 12 injunction pursuant to FRCP 65 and Local Rules 7-10 and 65. Plaintiff is informed and believes
 13 and thereon alleges that by reason of the unlawful acts and attempts to restrain and direct the duties
 14 of Plaintiff without jurisdiction and in violation of constitutional standards and State and Federal
 15 law and by reason of the requested relief set forth in the Lewis Faction Lawsuit and the TRO issued
 16 by Defendant Duran, Defendants, and each of them, will continue to unlawfully seek to direct and
 17 unlawful restrain Plaintiff in his duties as Sheriff of Madera County.

18 136. Because of the actions and orders of the Lewis Faction Tribunal, including its issued
 19 TRO, and by reason of the pending lawsuit in the Lewis Faction Tribunal against Sheriff Anderson
 20 all in violation of both Federal and State law as hereinabove alleged, Plaintiff will suffer and incur
 21 immediate and irreparable harm including but not limited to being subject to unlawful orders; being
 22 ordered to undertake duties and refrain from undertaking duties contrary to his oath of office as
 23 Sheriff of Madera County and in violation of his constitutional rights and obligations under the
 24 United States and California Constitutions. Further, such orders and threatened orders seek to usurp
 25 the power of the State of California and to direct Sheriff in violation of both Federal and State law.
 26 The existence of such TRO and the alleged and stated authority of the Lewis Faction Tribunal holds
 27 itself out as a lawful authority to the public and places Defendants in their representative capacities
 28 in the ostensible position of having authority to proceed in accordance with the TRO now in effect.

1 Further harm is described and outlined in the sworn declaration of Plaintiff the allegations of which
2 are incorporated herein by this reference. If Defendants herein are not immediately restrained and
3 enjoined, (a) they will substantially and irreparably impair and impede Sheriff Anderson from
4 fulfilling his lawful duties and will, in particular, impair Sheriff Anderson's maintaining law and
5 order within his jurisdiction, and (b) they will interfere with and obstruct justice within Sheriff
6 Anderson's jurisdiction.

7 137. The TRO of Defendant Duran and the purported right to exercise jurisdiction over
8 Plaintiff, undermines the lawful authority of Plaintiff as Sheriff and undermines his reputation and
9 ability to carry out his law enforcement duties both within Madera County, both on and off the
10 Rancheria. The results of such damage result in incalculable but real harm to Plaintiff and to the
11 State of California for which he is obligated to perform duties and enforce laws now blatantly and
12 openly challenged by a "tribunal" purportedly operating under tribal law and thereby seeking to
13 control and bind Plaintiff to laws and standards which have no applicability to Plaintiff and seek to
14 order Plaintiff to answer to personnel who have no authority over him and who actually are subject
15 to Plaintiff's jurisdiction about which they object or otherwise seek to thwart.

16 138. Sheriff Anderson will be irreparably harmed in that Defendants have and will
17 continue to violate Sheriff Anderson's rights to due process, as Defendants have already
18 demonstrated by entry of the Lewis Faction Tribunal TRO against Sheriff Anderson without proper
19 notice or opportunity to appear. The Lewis Faction has made demand on Sheriff Anderson for \$5
20 million in the Lewis Faction Lawsuit in a case in which the Lewis Faction Tribunal is not a
21 legitimate or recognized court and clearly lacks subject matter jurisdiction, thereby risking an
22 adverse judgment or other action in the Lewis Faction Tribunal for which Sheriff Anderson would
23 incur substantial inconvenience and expense to appear and defend themselves. Moreover,
24 Defendants seek to avoid submission to the jurisdiction of this Court as mandated by the 2007
25 MOU and by reason of the CIHA Agreement herein described. By such avoidance, Plaintiff is
26 deprived of his constitutional rights, to due process under United States and California standards,
27 not tribal standards which are limited and not co-extensive and denial of a right to a trial by jury and
28 a right to appeal, none of which exists under the standards and laws unlawfully sought by

1 Defendants to be imposed upon Plaintiff.

2 139. Plaintiff seeks hereby to prevent the above-described irreparable harm from
3 occurring which will result absent this Court's issuance of the requested relief including a
4 temporary restraining order, preliminary injunction and permanent injunction as requested by
5 Plaintiff hereby.

6 140. A balancing of the relevant hardships favors the entry of a temporary restraining
7 order and preliminary and permanent injunctive relief against Defendants, and such relief would
8 serve the public interest.

9 141. The Lewis Faction Tribunal, through Defendant Duran, and Defendant Howard, and
10 their successors, should be preliminarily and permanently enjoined from adjudicating the Lewis
11 Faction Lawsuit and from taking any action to further the prosecution of Sheriff Anderson in the
12 Lewis Faction Lawsuit and any other civil litigation in the Lewis Faction Tribunal adverse to
13 Plaintiff.

14 142. Any actions by Defendants to exercise any authority on the basis of the Lewis
15 Faction Tribunal jurisdiction will cause Sheriff Anderson to suffer irreparable harm for which there
16 is no adequate remedy at law.

17 143. Plaintiff is entitled to both temporary and permanent injunctions prohibiting
18 Defendants from taking any actions as to Plaintiff in the Lewis Faction Lawsuit or any other civil
19 litigation in the Lewis Faction Tribunal as set forth in its Proposed Order Granting Application for
20 Temporary Restraining Order and Order to Show Cause Why a Preliminary Injunction Should Not
21 Issue to include the following:

22 A. Defendants, and each of them, are ordered that, pending an order by this
23 Court as to whether a preliminary injunction should issue, Defendants, their
24 officers, agents, servants, employees, and attorneys, and all persons acting
25 by, through, under, or in concert with Defendants (referred to collectively
26 hereinafter as "Defendants") are enjoined from proceeding with the action
27 currently pending before Defendant Duran and filed by the Lewis Faction
28 against John P. Anderson in his individual and official capacity as the

Madera County Sheriff. Defendants shall not conduct any further tribal court hearings against the Plaintiff herein in which Madera County, the Madera County Sheriff or their employees, officers, officials, elected or appointed board members, agents or attorneys are named in any manner as Defendants or real parties in interest. Defendants shall not entertain, order, issue, enforce or attempt to enforce any order, judgment ruling or decree of any kind against Plaintiff or his employees, officers, officials, elected or appointed board members, agents or attorneys.

B. The TRO issued against Plaintiff Anderson by Defendant Duran on or about August 6, 2013, is void and of no effect. Said TRO shall not be served upon Plaintiff Anderson and enforced. Sheriff Anderson is ordered not to comply with any orders of Defendant Duran, the Lewis Faction Tribunal or any tribal court without further order of this Court.

C. Defendants are to immediately vacate the TRO issued against Plaintiff and that it is hereby held to be unenforceable.

D. Within five business days from the date of this order, Defendants Duran and Howard shall serve and file a declaration verifying that they have complied with this order and detailing what steps, if any, they have taken to do so.

144. Plaintiff also alleges that he is entitled to a preliminary injunction and permanent injunction on the same terms and conditions as alleged above.

IX.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks relief and judgment against the Defendants, as follows:

A. For a declaratory judgment that the Tribe, CEDA, CIHA, the Lewis Faction Tribunal, and Defendants Duran, Howard, Lewis, Alberta, Bushman, Waltz, Chenot, Castillo, and Espe have no jurisdiction over Plaintiff in the Lewis Faction Tribunal or in any tribal court of the Tribe with respect to the claims and matters as alleged in the Lewis Faction Lawsuit.

///

1 B. For a declaratory judgment that all orders of Defendant Duran including the TRO
2 issued in the Lewis Faction Lawsuit are without force or effect and otherwise issued without
3 jurisdiction and are void.

4 C. For such other and further declaratory judgments consistent with the contentions
5 and allegations of Plaintiff as set forth in his Complaint and as are otherwise necessary and
6 consistent therewith.

7 D. For a temporary restraining order and preliminary and ultimately a permanent
8 injunction providing that Defendants, their officers, agents, servants, employees, and attorneys,
9 and all persons acting by, through, under, or in concert with Defendants (referred to collectively
10 hereinafter as "Defendants") are enjoined from proceeding with the action currently pending
11 before Defendant Duran and filed by the Lewis Faction against Sheriff Anderson in his individual
12 and official capacity as the Madera County Sheriff. Defendants shall not conduct any further
13 tribal court hearings against the Plaintiff herein in which the County, the Sheriff or their
14 employees, officers, officials, elected or appointed board members, agents or attorneys are named
15 in any manner as Defendants or real parties in interest. Defendants shall not entertain, order,
16 issue, enforce or attempt to enforce any order, judgment ruling or decree of any kind against
17 Plaintiff or his employees, officers, officials, elected or appointed board members, agents or
18 attorneys.

19 E. The TRO issued against Plaintiff Anderson by Defendant Duran on or about
20 August 6, 2013, is void and of no effect. Said TRO shall not be served upon Plaintiff Anderson
21 and enforced. Sheriff Anderson is ordered not to comply with any orders of Defendant Duran, the
22 Lewis Faction Tribunal or any tribal court without further order of this Court.

23 F. Defendants are to immediately vacate the TRO issued against Plaintiff and that it is
24 hereby held to be unenforceable.

25 G. Within five business days from the date of this order, Defendants Duran and
26 Howard shall serve and file a declaration verifying that they have complied with this order and
27 detailing what steps, if any, they have taken to do so

28 H. For such other and further relief as the Court deems just and proper.

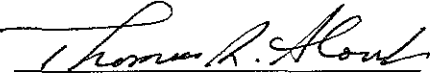
X.

JURY DEMAND

Plaintiff requests a jury trial on all issues triable to a jury in this matter.

DATED this 16th day of October, 2013.

SLOVAK BARON EMPEY MURPHY & PINNKEY, LLP

By: 

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Palm Springs, CA 92262

Tel: 760-322-2275

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Attorneys for Plaintiff John P. Anderson, individually
and in his official capacity as a Sheriff of Madera County

Slovak Baron Empey Murphy & Pinnkey LLP
1800 East Tahquitz Canyon Way
Palm Springs, CA 92262

VERIFICATION

I, John P. Anderson declare as follows:

1. I am the Sheriff of Madera County.
2. I have personal knowledge of the facts set forth in the forgoing Complaint and if called upon to testify I would competently testify as to the matters stated herein.
3. I verify under penalty of perjury under the laws of the United States of America that the factual statements in this Complaint is true and correct.

Executed on October 16, 2013.


JOHN P. ANDERSON,
Madera County Sheriff